



JFW

ATTORNEY DOCKET NO. 21087.0019U5
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
Stone *et al.*) Art Unit: 1633
Application No. 10/619,761) Examiner: Kaushal, Sumesh
Filing Date: July 14, 2003) Confirmation No. 7382
For: MACULAR DEGENERATION)
DIAGNOSTICS AND THERAPEUTICS)

ELECTION UNDER RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer Number 23859

Sir:

This is in response to the Office Action issued March 22, 2006, wherein restriction of the claims of the above-referenced application is required.

The Office Action requires restriction to one of the following groups:

- I. Claims 1-11, drawn to method of identifying a compound in cell or cell extract that modulates EFEMP1 bioactivity, classified in class 435, subclass 375;
- II. Claims 12-14, drawn to method of identifying a compound that modulates EFEMP1 bioactivity in an animal, classified in class 424, subclass 9.1;
- III. Claims 15-18, drawn to a compound, classified in class 530, subclass 350;
- IV. Claims 19-20, drawn to method of identifying whether a test molecule is an EFEMP1 binding partner, classified in class 435, subclass 375;
- V. Claims 21-22, drawn to method of identifying a molecule, which is a downstream or an upstream component of an EFEMP1 biochemical pathway, classified in class 435, subclass 375;

- VI. Claims 23-31, drawn to method of identifying a compound, which interacts with an EFEMP1 polypeptide or EFEMP1 binding partner, classified in class 435, subclass 375;
- VII. Claims 32-42, drawn to EFEMP1 nucleic acid and a transgenic animal, classified in class 800, subclass 13;
- VIII. Claims 43-47, drawn to an isolated EFEMP1 responsive regulatory element and a transgenic animal, classified in class 800, subclass 13; and
- IX. Claims 48-52, drawn to a cell and/or transgenic animal wherein the genomic EFEMP1 gene has been disrupted, classified in class 800, subclass 13.

Applicants provisionally elect Group I, claims 1-11, drawn to method of identifying a compound in cell or cell extract that modulates EFEMP1 bioactivity, with traverse.

Applicants request that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden would be required to examine all the claims. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) the search and examination of the entire application cannot be made without serious burden. See M.P.E.P. § 803.

In particular, the Examiner has not shown that the second requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine the groups together. Because little or no additional burden would be required to search and examine the groups together, applicants respectfully submit that the groups should be searched and examined together. For these reasons, reconsideration and withdrawal of the restriction requirement are requested.

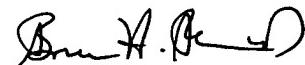
**ATTORNEY DOCKET NO. 21087.0019U5
APPLICATION NO.: 10/619,761**

For the reasons stated above, applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office (PTO), and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Consequently, reconsideration and withdrawal or modification of the restriction requirement is requested.

A Credit Card Payment Form PTO-2038 authorizing payment in the amount of \$60.00 (fee for a one (1) month extension of time for a small entity under 37 C.F.R. § 1.17(a)(1)), and a Request for a One-Month Extension of Time are enclosed. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

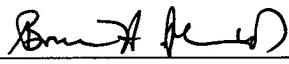
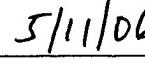


Bruce H. Becker, M.D., J.D.
Registration No. 48,884

NEEDLE & ROSENBERG, P.C.
Customer No. 23859
678-420-9300 Tel
678-420-9301 Fax

CERTIFICATE OF MAILING UNDER 37. C.F.R. 1.8

I hereby certify that this correspondence, along with any items indicated as attached or included, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.


Bruce H. Becker, M.D., J.D.
Date